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NOTABLE ECCLESIASTICAL LAWYERS: XIII

Adam Usk (c 1360–1430)

Richard Helmholz
Ruth Wyatt Rosenson Professor of Law, University of Chicago

The study of the Roman and canon laws at a university in mediaeval England – and indeed in later centuries – could lead eventually to high office in church or state.[1] With luck, even the episcopal bench was an attainable goal for talented civilians who had chosen to follow their study with entry into holy orders. Perhaps it was inevitable, therefore – certainly it was natural – that failure to attain the episcopate, or at least something close to it, could lead to ever more feverish efforts to secure benefices and finally to disappointment and bitterness among able men who had been denied promotion. Equally, however, the experience could lead to humility and acceptance in the face of misfortune. Of both these consequences there are few better examples than Adam Usk. His career and his writings are also full of interest for anyone who takes an interest in the history of the law of the English Church. The famous *Chronicle* he wrote opens windows on that subject, as it does on many of the events surrounding the deposition of Richard II and the difficult years that followed the accession of Henry IV.[2]

ADAM'S LIFE AND LEGAL CAREER

Adam was born in the village of Usk in Monmouthshire, and early attracted the patronage of Edmund Mortimer, Earl of March and Lord of Usk, who sponsored his entry to Oxford University and supported him while he was a student there.[3] The exact chronology of Adam's academic career is uncertain.[4] Like his support from the earl, we know about many of the steps he took at Oxford only because he mentioned them as asides in the *Chronicle* he later compiled. We do know that he was listed as a Bachelor of Law in 1388, and had become *Doctor utriusque*

1 R Storey, *Diocesan Administration in Fifteenth-century England*, second edition (York, 1972), pp 13–18; R Davies, 'The episcopate' in C Clough (ed), *Profession, Vocation, and Culture in Later Medieval England* (Liverpool, 1982), pp 51–89 at 64–65.
2 *The Chronicle of Adam Usk 1377–1421*, ed and trans C Given-Wilson (Oxford, 1997).
3 Ibid, pp 158–159.
4 The standard course of study is well described in J Brundage, *The Medieval Origins of the Legal Profession* (Chicago, IL, 2008), pp 248–271.

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iuris by 1390.[5] Prior to leaving Oxford to serve as an advocate in the Court of Arches, a move he made in 1395, he had also held what he himself described as a chair in civil law there.[6]

The move to London was a normal next step for any aspiring civilian. There Adam's work at the Court of Arches brought him into contact with Thomas Arundel, Archbishop of Canterbury, who supported him and whom he supported in his account of the archbishop's tribulations and exile that occurred in Richard II's 'Revenge Parliament' of September 1397.[7] After Thomas' death in 1414, Adam described the archbishop as 'the light and delight of church and clergy and the unshakeable pillar of the Christian faith'.[8] On a mundane level, Adam had him to thank for the bestowal of at least three benefices and, as he ruefully recalled later, of the promise of even more.[9] He was, he said, 'hoping to be promoted to greater things'. These hopes were not to be fulfilled. Among other reasons, Adam blamed this on prejudice against the Welsh.

There may have been more than simple prejudice involved, however. At the very least, Adam sympathised with the outbreak of Owen Glendower's revolt in the fall of 1400, and he may have done more.[10] Whatever the reasons, in early 1402 Adam left England for the Roman court. There he hoped to be able to take advantage of his talents as a lawyer, and in this goal he succeeded. Having passed what he described as 'a rigorous examination' of his legal knowledge administered by the cardinal who was to be the future Pope Innocent VII, he was named papal chaplain and one of the auditors of causes in the Apostolic Palace.[11] Within a week, he noted with satisfaction, 'thirty major causes' had been handed to him for decision.

However, Adam fared less well with the other ambition that had spurred his decision to leave England – the attainment of a bishopric. This was, his modern biographer tells us, something 'he clearly regarded as his due'.[12] He concluded that he stood a better chance for securing it in Rome than he had in London. But it was not to be. Despite several near misses, no mitre came his way. He left Rome in 1406 and, after fruitless wandering, intrigue with some of

5 The slightly conflicting evidence for the steps and their dates is stated and discussed in Professor Given-Wilson's 'Introduction' to *Chronicle*, pp xiv–xvii; see also C Given-Wilson, 'Usk, Adam (c. 1350–1430)', in *Oxford Dictionary of National Biography* (Oxford, 2004; online edition January 2009), available at <http://oxforddnb.com/view/article/98>, accessed 16 June 2016.

6 *Chronicle*, pp 152–153, 250–225. See also F Logan, *The Medieval Court of Arches* (Woodbridge, 2005), p 221.

7 See M Aston, *Thomas Arundel: a study in church life in the reign of Richard II* (Oxford, 1967), pp 368–369 and 378.

8 *Chronicle*, pp 246–247.

9 The best record of the benefices he received is contained in A Emden, *Biographical Register of the University of Oxford to A.D. 1500*, vol 3 (Oxford, 1959), pp 1937–1938.

10 'Introduction', *Chronicle*, p xxiii.

11 *Chronicle*, pp 154–155.

12 See 'Introduction', *Chronicle*, pp xxiii–xxiv.

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Glendower's supporters, and deprivation of virtually all his English benefices, in March 1411 he received the king's permission to return to England, where he resumed his career as an advocate in London. He still hoped for promotion after his return, but he spent more time in Wales and may even have contemplated entry into a monastic house there. He died in 1430 and was buried in the parish church at Usk, where his grave was marked by an epitaph in Welsh. It remains in the church today, attached to its fifteenth-century choir screen.[13] His will, making his kinsman Edward ap Adam his executor, was proved on 26 March 1430.[14] All of the 21 legatees named in it were Welsh.

ADAM AS A LAWYER

Adam's *Chronicle* and his role in political events in England have deservedly claimed the lion's share of the attention historians have paid to him. It is indeed an interesting account, containing both great events and a focus on the author's personal experiences that is unusual for the times.[15] It also includes a compelling description of life in the Eternal City. Adam was fascinated by the papal ceremonies but repelled by the venality of the papal court. 'Everything was for sale' there, he recalled.[16] For present purposes, the *Chronicle*'s most important feature is the material it contains that aids in tracing the place of ecclesiastical law in English history. Most of it has attracted little or no notice among the many historians who have used the *Chronicle*. But its contents repay focusing briefly on that subject.

Probably the best example of the utility of taking this approach comes from Adam's account of the most dramatic event recorded in it: the deposition of Richard II. Finding legal justification for this step was no easy matter. Adam's *Chronicle* records that the solution the leaders hit upon was to put the question to a group of doctors (of law) and bishops. He himself was one of them.[17] They obliged, basing their conclusion on the decree of Pope Innocent IV issued at the Council of Lyons that had declared the deposition of Emperor Frederick II. That decree had been included in the *Liber sextus*,[18] and its wording, including some of what appeared only in the *glossa ordinaria* or in other canonical commentary on the decree, duly appeared – first in the decree of deposition and then in the abdication that Richard II was obliged to read before Parliament.[19] Among other things, he was obliged to confess himself a *rex inutilis*, subject to removal from

13 See J Morris-Jones, 'Adam Usk's epitaph', (1921) 31 *Y Cymmrodor* 112–134.
14 It is printed in E Owen, 'The will of Adam of Usk', (1903) 18 *English Historical Review* 316–317.
15 E Jacob, *Essays in the Conciliar Epoch* (Manchester, 1963), pp 24–25.
16 *Chronicle*, pp 160–161.
17 Ibid, pp 62–63.
18 *Sext* 2.14.2.
19 *Rotuli Parliamentorum*, 6 vols (London, 1783), vol 3, fols 416–417.

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his throne under one current reading of the canonical authorities.[20] Traditionally historians have paid little attention to the use that was made of the canon law on this occasion, and it is undeniable that the armed revolt led by the future Henry IV counted most in securing the result.[21] Even so, as the careful research of Gerard Caspary has established, one lesson taught by the incident was that it was 'considered normal to state the terms of the problem in the vocabulary of canon law'.[22] It provided the legal justification. That is how Adam perceived it and also how he presented it.

As one might expect from his primary profession, reference to authorities found in the *ius commune* came naturally to Adam. This habit of mind appears throughout his *Chronicle*. He described a legal representative as a *procurator*, not an attorney.[23] For him, treason was *laesio maiestatis*, and the penalty for failing to prove a formal accusation in law was *pena talionis*.[24] His references to legal questions involved oaths taken from the titles *De iureiurando* found in the Roman and canon laws.[25] Of course, these terms were not unknown to English common lawyers, and occasionally they used them. Still, their preponderance in Adam's *Chronicle* points to the importance of his training in the civil law and perhaps to a civilian's belief in their continued relevance in England.

This habit of making explicit reference to the *ius commune* carried over into many of the subjects that Adam chose to raise alongside his narrative of the great events of his day. For instance, he interrupted his account to describe three disputes over heraldry heard in the Court of Chivalry in 1401. Here there was a special reason: Adam himself had been counsel in one of them. He recorded that its outcome turned upon the law of possessory interdicts found in Roman law, and a dispute about its fit with the facts of the dispute occasioned what he described as 'tumultuous argument'.[26] Likewise, he described more than a few incidents from his career where he himself had been consulted on points of civil and canon law. For instance, the Prior of Charterhouse near London had asked him whether a monk who voluntarily starved himself to death should be accorded Christian burial or should instead be treated as a

20 On the development of this concept, see E Peters, *The Shadow King: rex inutilis in medieval law and literature, 751–1327* (New Haven, CT, 1970).

21 See, eg, G Lapsley, 'The parliamentary title of Henry IV', (1934) 44 *English Historical Review* 423–449, reprinted in G Lapsley, *Crown Community and Parliament in the Later Middle Ages*, ed H Cam and G Barraclough (Oxford, 1951), pp 272–340, at 288–291, 310–321; G Harriss, *Shaping the Nation: England 1360–1461* (Oxford, 2005), pp 488–495.

22 G Caspary, 'The deposition of Richard II and the canon law' in S Kuttner and J Ryan (eds), *Proceedings of the Second International Congress of Medieval Canon Law* (Vatican City, 1965), pp 189–201 at 201. Some notice of Adam of Usk's account and Caspary's contribution is, however, taken in what is now the authoritative work on the reign: N Saul, *Richard II* (New Haven, CT, and London, 1997), pp 418–419, and also in M Bennett, *Richard II and the Revolution of 1399* (Stroud, 1999), pp 175–176.

23 *Chronicle*, pp 24–25.

24 Ibid, pp 242–243 and 122–123.

25 Ibid, pp 120–121. See *Dig.* 12.2.1–42; X 2.24.1–36.

26 *Chronicle*, pp 132–135.

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suicide.[27] Unfortunately, Adam did not leave even a hint of what his answer had been. Thankfully, the monk had not died. Adam was, however, more forthcoming about the results that followed objections raised in the 1414 Parliament against 'the several excesses, extortions and omissions' alleged to have marred the exercise of the English Church's jurisdiction over last wills and testaments.[28] Here he provided detail about the reforms that were adopted in Convocation after the king had determined that the subject should be dealt with there.[29]

The *Chronicle* included several direct references to the canon and Roman laws. Adam did not think them out of place. He was not above citing the texts of the *Corpus iuris canonici* in ways that showed his lawyerly skill in their manipulation.[30] He also used them quite broadly in his narrative. In a discussion with envoys from the Duke of Bavaria over the current election of an emperor, for example, he reminded them of the exclusive right of the pope to judge the qualifications of the candidate elected, a right that was asserted in a text from the *Liber sextus* and endorsed by the commentary of Joannes Andreae.[31] Nothing came of it, however. The Bishop of Hereford had quickly told him to be silent – a rebuke he also recorded. Similarly, Adam thought it relevant to cite a text from the Roman law's Codex in support of a dispute in Parliament about habitual royal largess. The Commons had objected to overly generous grants of crown land. Adam seized upon the civil law's text for an answer: subjects should not be allowed to 'impose restraints upon the king's natural benevolence'.[32] He was also not at all hesitant about citing the canon law as relevant to the treatment of the clergy in the temporal forum. The imprisonment of bishops was the issue of the day. Adam brought forward relevant texts from the Gregorian Decretals and the Clementines to prove its illegality and to condemn its occasional use in English practice.[33]

CONCLUSION

A significant though perhaps obvious point about Adam's life and career ought to be made in closing. He made a career as an ecclesiastical lawyer in England, France and Italy – even in the highest ecclesiastical court in Europe. Everywhere, he had found clients who were willing to pay for his expertise. He did not himself make much of this aspect of his life in the *Chronicle*; indeed, he mentioned it as a cause of regret. It was a necessity, something

27 Ibid, pp 126–127.
28 Ibid, pp 250–251.
29 They are more fully set out in D Wilkins, *Concilia Magnae Britanniae et Hiberniae*, 4 vols (London, 1737), vol 3, pp 358–368.
30 See *Chronicle*, pp 96–97, dealing with the law of costs in the ecclesiastical forum.
31 *Sext* 2.14.2; Joannes Andreae was responsible for the *glossa ordinaria* on the texts of the *Sext*.
32 *Chronicle*, pp 82–83; the text was *Cod.* 10.12.2.
33 *Chronicle*, pp. 92–93; the texts were X 5.12.6 and Clem. 5.8.1.

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forced on him by his long continued failure to secure a bishopric. Nonetheless, what might be called the international dimension of one Englishman's career remains impressive, even surprising. The legal connections between England and the Continent evident in Adam's career of course point to a time before the sixteenth century break with the papacy, and they also point to the strength and ubiquity of the European *ius commune*, a strength that outlasted that break. What we must regret, therefore, is the loss of the records of the Court of Arches in London from the time when Adam was a practising advocate there. They would have told us more about his career, and they would also have advanced what we know about the history of the *ius commune* in England.

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